Supreme Court, U.S.
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No. 01-1054

IN THE
Supreme Court of the United States

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, *et al.*,

Petitioners,

v.

LABOR/COMMUNITY STRATEGY CENTER, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

SUPPLEMENTAL BRIEF FOR RESPONDENTS

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SUPPLEMENTAL BRIEF FOR RESPONDENTS

On February 19, 2002, following submission of Respondents' Brief in Opposition to Certiorari in this matter, a group of proposed *amici curiae*, including Foothill Transit and other public corporate bodies within Los Angeles County, filed a Motion seeking leave to file an appended Brief in support of Petitioners.[1] Although that Brief largely rehearses arguments made in the Petition, we believe that two points require a response.

First, *amici* identify their interest in this matter primarily as a concern about a hypothetical reallocation of revenues received by Petitioner MTA from sales taxes earmarked for public transportation ("Proposition A" and "Proposition C" funding):

> As part of its authority, MTA controls a substantial pool of these funds and disperses them to the *amici*.
>
> The Ninth Circuit ruling challenged here affirms a remedial order that will cost MTA many millions of dollars to implement. If MTA attempts to take Proposition A and C funds it otherwise would distribute to the *amici* to satisfy MTA's court-ordered obligations, less funding would be available to the *amici*.

(*Amici* Br. at 2) (footnote omitted.)

This interest is not implicated by the Questions sought to be presented by Petitioners. Neither the Special Master nor the District Court decided that the remedy for MTA's noncompliance with the Consent Decree should include

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[1]Although Respondents had consented to the filing of such a brief on behalf of Foothill Transit, proposed *amici* decided to submit a motion to this Court because "additional *amici* sought to join the proposed brief after that consent was given . . . [and] it was too late to obtain new consents from the parties" (Motion for Leave to File, at 1).

reallocation of Proposition A or C funds. Rather, the *Consent Decree* itself provides that:

> If MTA fails to meet the target load factors for all bus lines by the dates in paragraph 1 above, (except those exempted or deferred under paragraph 3 above), MTA shall meet the target as soon as possible and reallocate sufficient funds from other programs to meet the next lower target load factor as scheduled. The reprogrammed funds, *which may include but not be limited to revenues from Propositions A and C discretionary funds,* shall be used to meet the target load factors.

(Pet. 177a [emphasis added].) Thus, the possibility that Proposition A or C funds might have to be reallocated to meet MTA's responsibilities under the Decree is no different from the situation in *United States v. City of Yonkers*, 856 F.2d 444 (2d Cir. 1988), *rev'd on other grounds sub nom. Spallone v. United States*, 493 U.S. 265 (1990), in which, Petitioner's *amici* agree, federalism objections were not well-founded because the trial court's order "simply 'was carrying out the terms of the Consent Judgment,'" *Amici Br.* at 14 n.10.

It bears remarking that reallocation of "Propositions A and C discretionary funds" is a remedy congruent with the original act by MTA that gave rise to this lawsuit: "MTA's decision to spend several hundred million dollars [of discretionary funds] on a new rail line, foregoing an opportunity to reduce overcrowding problems on city buses, while at the same time increasing bus fares and eliminating monthly discount passes" (Pet. 3a [opinion below]).

Moreover, the Consent Decree (including the language quoted above) was entered in 1996 — yet *amici* have never sought to intervene in this action or otherwise protect the interests they now claim are threatened by its enforcement. In

any event, since MTA proposed the remedy of reallocating Proposition A and C funding in the Consent Decree itself, *amici*'s representation that the ruling below gives MTA "less protection from [*i.e.*, based upon] federalism principles than agencies found to have violated the law" (*Amici* Br. at 5) is sheer nonsense.

Second, even if we agreed — which we do not — with *amici*'s characterization of language in the ruling below, as approving a district court order that requires MTA to violate federal funding conditions that "might disqualify MTA from entitlement to receive funds" (Pet. 20a), this Court reviews judgments, not opinions. *E.g.*, *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842 (1984). And the judgment below affirms orders of the Special Master that explicitly allow MTA to meet federal program funding requirements even if that delays implementation of the remedy for its noncompliance with the Consent Decree. *See* Brief in Opposition to Certiorari, at 23-24.

In addition, as we pointed out in our Brief in Opposition to Certiorari (at 24-25), MTA informed the court below that it complied with the District Court's order in 1999 by purchasing 297 new buses. Not only was this accomplished, as we observed in the Brief in Opposition, without violating the terms of federal grant statutes, but we must presume that it was also accomplished without redirecting Proposition A or C funds away from *amici* — or they would surely have advised this Court otherwise.

CONCLUSION

Amici, like Petitioners, advance no meritorious reason for reviewing the judgment below. The Writ should be denied.

Respectfully submitted,

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